

## AMENDMENTS

### In the Claims:

Please cancel claims 4, 5, 7, 15 and 16 and amend the remaining claims as follows:

1. (Twice amended) A process of treating a human cancer patient comprising providing to [said] a cancer cell in said patient a gene encoding a radiosensitizing polypeptide operatively linked to a constitutive promoter and contacting said cell with ionizing radiation, whereby the gene is expressed and the cancer is treated.
2. (Amended) The process of claim 1, wherein the [cell is radiosensitized by increasing the transcription of the] gene is a TNF- $\alpha$  gene.
3. (Amended) The process of claim [1] 18, wherein the [cell is radioprotected by increasing the transcription of] radioprotecting factor is MnSOD, IL-1[,] or IL-2[, or TNF].
6. (Twice amended) The process of claim [3] 1, wherein the constitutive promoter is the immediate-early CMV enhancer/promoter, the RSV enhancer/promoter, the SV40 early promoter, the SV40 late enhancer/promoter, the MMSV LTR, the SFFV enhancer/promoter, the EBV origin of replication, the  $\beta$ -actin promoter, or the Egr enhancer/promoter.

8. (Amended) The process of claim [7] 1, wherein the transfection is by liposomes, adenovirus or HSV-1.
29. (Amended) A pharmaceutical composition comprising a genetic construct comprising a gene that encodes a cell radiosensitizing or radioprotecting factor operatively linked to a constitutive promoter dispersed in a pharmacologically acceptable carrier.
30. (Twice amended) The pharmaceutical composition of claim 29, further defined as comprising the [vector] genetic construct packaged with a virion or virus particle.
35. (Amended) A process of inhibiting growth of a tumor comprising the steps of:
- (a) delivering to said tumor a therapeutically effective amount of a DNA molecule comprising a constitutive promoter operatively linked to a region encoding a polypeptide having the ability to inhibit growth of a tumor cell, which coding region further is operatively linked to a transcription-terminating region, whereby said polypeptide is expressed; and
  - (b) exposing said cell to an effective dose of ionizing radiation,

whereby the growth of said tumor is inhibited by said polypeptide and ionizing radiation.